

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

IN THE MATTER OF THE APPLICATION OF)	
TREATS ISLAND FISHERIES, INC. FOR THE)	FINDINGS OF FACT,
TRANSFER OF AN AQUACULTURE LEASE)	CONCLUSIONS OF LAW AND
LOCATED IN JOHNSON COVE, EASTPORT,)	DECISION
WASHINGTON COUNTY, MAINE TO STOLT)	
SEA FARM MAINE, INC.)	

On September 28, 2004, Treats Island Fisheries applied for the transfer of an aquaculture lease to Stolt Sea Farm Maine, Inc. The 10.34-acre aquaculture lease, TIFI JC, is located in Johnson Cove in Eastport, Maine. The lease was issued on September 2, 1997 for a term of ten years, for the net pen culture of Atlantic salmon, rainbow trout, haddock, Atlantic halibut, sea scallops and clams.

Notice of the application for lease transfer was published in the December 2004 issue of Commercial Fisheries News and the November 12, 2004 and November 26, 2004 issues of the Quoddy Tides newspaper. Members of the public, riparians and interested persons were given to December 12, 2004 to submit comments or request a hearing on the application for lease transfer. No comments or requests for a hearing were received by the Department.

Applications for aquaculture lease transfers are governed by 12 M.R.S.A. §6072(12-A) and Chapter 2.60 of the Department's rules, which provide that an aquaculture lease may be transferred to another person for the remaining portion of its term if the commissioner determines that the change in lessee does not violate any of the lease issuance criteria set forth in 12 M.R.S.A. §6072(7-A); the transfer is not intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 M.R.S.A. §6072(8); the transfer is not for speculative purposes; and the transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 300 acres.

Stolt Sea Farm Maine, Inc. is the leaseholder of a lease site located in close proximity to site TIFI JC. Concerns regarding biosecurity and coordinated stocking have led both parties to agree that the two lease sites should be held by the same entity. Stolt Sea Farm intends to utilize this site for the same purpose as allowed for in the original decision and lease.

Therefore, the change in lessee will not result in a change in the type of activity that has been permitted on the site, pursuant to the lease issued in accordance with the statutory criteria set forth in 12 M.R.S.A. §6072(7-A). The change in lessee to Stolt Sea Farm Maine, Inc. will not violate any of those criteria.

Section 8 of 12 M.R.S.A. § 6072 sets forth an order of preference if more than one person applies to lease an area. There were no competing applications for this lease area. Therefore, the transfer is not intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 M.R.S.A. §6072(8).

According to Department regulations, Chapter 2.60, "speculative purposes" shall be found to exist whenever the owner of the lease to be transferred has not conducted any substantial aquaculture on the lease sites, including but not limited to seeding, cultivation or harvest of organisms. According to the transfer application, the lease site was used for the cultivation of trout. However, due to disease, court-ordered fallowing, and stocking coordination difficulties, the site has not been used recently. However, Stolt Sea Farm Maine does plan to stock this site during the next production cycle, which is in 2006. Therefore, the transfer is not for speculative purposes.

Stolt Sea Farm Maine, Inc. holds a total of 6 leases, totaling 128.33 acres. Therefore, the transfer of this lease will not cause the transferee to lease more than 300 acres.

Finally, in order for the Department to locate the lease site using modern location finding technology, i.e., Differential Global Positioning Systems, the lease description has been converted to Datum NAD83 and Degrees True. While the original site location shall remain the same, the following lease description shall replace the description set forth in the original lease document: STARTING at the point Latitude 44°55'35.54"N, Longitude 67°00'41.18"W (datum NAD83/WGS84), and point of beginning; thence 73.46° True, a distance of 899.90 feet to the southeast corner (44°55'38.07"N, 67°00'29.19"W); thence 343.52° True, a distance of 499.57 feet to the northeast corner (44°55'42.80"N, 67°00'31.16"W); thence 253.53° True, a distance of 900.29 feet to the northwest corner (44°55'40.28"N, 67°00'43.16"W); thence 163.47° True, a

distance of 500.75 feet to the southwest corner and point of beginning. This new description sets forth the same boundaries of the original lease site, but is more precise and can be easily located through the use of modern technology.

Decision

The Commissioner of Marine Resources grants the application of Treats Island Fisheries, Inc. for the transfer of the 10.34-acre aquaculture lease located in Johnson Cove in Eastport, Maine, to Stolt Sea Farm Maine, Inc. for the remainder of the lease term, to September 1, 2007. In the transfer of this lease Stolt Sea Farm Maine, Inc. is subject to the same terms, conditions, and obligations as set forth in the original lease.

Dated: _____

George D. Lapointe (Commissioner)
Department of Marine Resources